

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

BOBBY E. BURTON JR. §
v. § CIVIL ACTION NO. 6:16cv1222
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Bobby Burton, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 apparently challenging a prison disciplinary proceeding. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Burton's petition did not set out any specific facts or grounds for relief. The Magistrate Judge ordered him to file an amended petition, pursuant to Rule 2(c) of the Rules Governing Section 2254 Proceedings in the United States District Courts, but when Burton did not comply, the Magistrate Judge issued a Report recommending that the petition be dismissed without prejudice for failure to prosecute or to obey an order of the Court.

Burton received a copy of the Magistrate Judge's Report on August 4, 2017, but no objections have been received; accordingly, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the District Court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 22) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. It is further

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

So Ordered and Signed

Sep 14, 2017



Ron Clark, United States District Judge